

UNITED STATES OF AMERICA 110 FERC ¶61,276
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

American Electric Power Service Corporation

Docket Nos. ER05-31-000
ER05-31-001

PJM Interconnection, LLC and
Midwest Independent Transmission
System Operator, Inc.

EL05-70-000

ORDER CONDITIONALLY ACCEPTING FILING AND
INSTITUTING SECTION 206 PROCEEDING

(Issued March 9, 2005)

1. On October 12, 2004, as amended on January 11, 2005, American Electric Power Service Corporation (AEP), as agent for Indiana Michigan Power Company (I&M), submitted for filing a revised composite utility-to-utility interconnection agreement between I&M and Northern Indiana Public Service Company (NIPSCO). In this order, the Commission will conditionally accept the agreement for filing, effective October 11, 2004, as requested. However, as explained below, the Commission will institute a proceeding pursuant to section 206 of the Federal Power Act (FPA).¹ This order benefits customers because it ensures that the terms and conditions of jurisdictional service are just and reasonable.

Background and Filings

2. I&M and NIPSCO are parties to an existing interconnection agreement, originally dated November 1, 1961, and designated I&M FERC Electric Rate Schedule 22. This agreement has been subsequently amended on numerous occasions. The instant filing is

¹ 16 U.S.C. § 824e (2000).

a “composite agreement,” which the parties request supersede the existing 1961 agreement and subsequent modifications. AEP stated in its October 12, 2004 Filing that this agreement sets the terms and conditions under which I&M and NIPSCo may continue the interconnected operation of their respective systems.

3. On December 10, 2004, pursuant to delegated authority, Commission Staff notified AEP that its October 12, 2004 Filing was deficient because: (1) it did not contain an explanation of the changes or a marked version showing the changes, as required by the Commission’s regulations; (2) it did not explain why the agreement was filed as a stand-alone rate schedule instead of a service agreement under the applicable transmission provider’s Open Access Transmission Tariff (OATT); and (3) the interconnection agreement bundled emergency sales service with transmission interconnection service, in apparent contravention of the Commission’s unbundling requirements.

4. On January 11, 2005, AEP filed its response. AEP explained in that filing that the revised interconnection agreement reflects the current terms and conditions. The revised agreement also reflects the removal of several obsolete rate schedules, including schedules for Energy Transfer, Short Term Power, Interchange Power, and Emergency Power, and incorporates all of the current interconnection points and metering locations between I&M and NIPSCo that were included in the original agreement and subsequent amendments. Additionally, in response to the second deficiency identified in the letter, regarding whether the agreement should have been filed as a service agreement under the applicable transmission provider’s OATT instead of as a rate schedule, AEP explained that PJM Interconnection, LLC (PJM) is the control area operator for AEP in the East Central Area Reliability Council (ECAR) region, while Midwest Independent Transmission System Operator, Inc. (Midwest ISO) is the control area operator for NIPSCo in the ECAR region. AEP stated that it did not file the revised interconnection agreement as a service agreement under the AEP, PJM, Midwest ISO or NIPSCo OATT because it replaced a current utility-to-utility agreement. Additionally, AEP pointed to a similar filing made in Docket Nos. ER04-509-000, ER04-509-001, and ER04-125-000, where PJM stated that it “does not believe its tariff provides the best forum to address [the] physical aspects of ‘wires to wires’ interconnections.”² AEP also noted that PJM further stated in that docket that “neither PJM’s governing agreements nor the PJM Tariff’s form of Network Integration Transmission Service Agreement contain provisions for matters such as identification of ownership of facilities at the point of interconnection,

² See January 11, 2005 filing of AEP at 3-4. In Docket Nos. ER04-509-000, ER04-509-001, and ER04-125-000, Delmarva Power & Light Company submitted seven unexecuted mutual operating agreements between it and several municipalities.

responsibility for operation, maintenance and repair of particular facilities or coordinating such activities with the other interconnection party, or indemnities between the parties whose facilities are interconnected.”³

Notice of Filing and Interventions

5. Notice of AEP’s October 12, 2004 Filing in Docket No. ER05-31-000 was published in the *Federal Register*,⁴ with protests and interventions due on or before November 2, 2004. A timely motion to intervene was filed by Midwest ISO.

6. Notice of AEP’s January 11, 2005 Filing in Docket No. ER05-31-001 was published in the *Federal Register*,⁵ with protests and interventions due on or before February 1, 2004. None was filed.

Discussion

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁶ the timely, unopposed motion to intervene of Midwest ISO serves to make it a party to this proceeding.

8. The revised composite utility-to-utility interconnection agreement filed by AEP in this proceeding contains provisions regarding the interconnected operation of the transmission systems of I&M and NIPSCO, which are under the operational control of PJM and Midwest ISO, respectively. Among other operational provisions, the agreement contains provisions regarding interruption of service (article 3.2), control of reactive power exchange and unscheduled energy (articles 3.3 and 3.4), and operating responsibilities (article 3.5). In *Ameren Operating Companies*, the Commission required that the Midwest ISO be signatory to a similar interconnection agreement between Union Electric Company d/b/a AmerenUE (AmerenUE) and Southwestern Power Administration, because Midwest ISO “has the responsibility to reliably operate and plan for transmission facilities under its management and control, including the AmerenUE

³ See January 11, 2005 filing of AEP at 3.

⁴ 69 Fed. Reg. 62,263 (2004).

⁵ 70 Fed. Reg. 3696 (2005).

⁶ 18 C.F.R. § 385.214 (2004).

transmission system.”⁷ Consistent with this precedent, we will require that both PJM and Midwest ISO, who have operational and planning responsibility for the I&M and NIPSCO systems, respectively, be signatories to the revised interconnection agreement filed in the instant proceeding. Accordingly, we will accepting the revised interconnection agreement effective October 11, 2004, as requested,⁸ and direct AEP and NIPSCO to file, within 60 days of the date of this order, a revised interconnection agreement that includes PJM and the Midwest ISO as signatories, and reflects the fact that they have operational authority over the transmission facilities at issue.

9. Additionally, section 205(c) of the FPA provides that a public utility shall “file with the Commission, . . . in such form as the Commission may designate, and shall keep open in a convenient form and place for public inspection schedules showing all rates and charges for any transmission or sale subject to the jurisdiction of the Commission.”⁹ The filing at issue here governs the interconnection of transmission owners that are members of regional transmission organizations (RTO). While we recognize the statement by PJM in Dockets Nos. ER04-509-000, ER04-509-001, and ER04-125-000 (as recounted by AEP in its January 11, 2005 Filing) that it does not believe that its tariff is “the best forum to address [the] physical aspects of ‘wires to wires’” agreements such as this one, the Commission nevertheless believes that in order to make the revised interconnection agreement filed here readily accessible to interested parties, it should properly be designated as related to both the PJM and Midwest ISO OATTs.

10. Doing so will promote “one-stop shopping” for customers in the PJM and Midwest ISO footprints, and will enhance the transparency of the PJM and Midwest ISO Transmission Owners’ operations as well as make it easier to locate the agreement for

⁷ 108 FERC ¶ 61,189 at P 4 (2004). Also, on January 10, 2005 in Docket Nos. ER05-237-000 *et al.*, the Director, Division of Tariffs and Market Development – Central, Office of Markets, Tariffs and Rates, issued an unpublished, delegated letter order requiring that Midwest ISO be signatory to a group of transmission-distribution interconnection agreements between American Transmission Company LLC and various other parties, relying on the Commission’s reasoning in *Ameren Operating Companies*. We note that rehearing of this unpublished letter order and its requirement that Midwest ISO become a signatory to the agreements is currently pending before the Commission.

⁸ See *Central Hudson Gas and Electric Corp.*, 60 FERC ¶ 61,106 at 61,338-39 (1992), *reh’g denied*, 61 FERC ¶ 61,089 (1992).

⁹ 16 U.S.C. § 824d(c) (2000).

anyone that wishes to do so. As the Commission moves toward electronic filing,¹⁰ moreover, it is important that all agreements relating to an RTO's operations be designated as related to that RTO's OATT. Designation of the agreement as related to the RTOs' OATTs is not meant to imply, however, that either RTO has any additional responsibility for its negotiation, administration and enforcement, or that either RTO has any additional liability in any manner with regard to the agreement. Accordingly, in Docket No. EL05-70-000 the Commission will direct, pursuant to sections 205(c) and 206 of the FPA, that PJM and Midwest ISO, within 30 days of the date of this order, each either designate this agreement as related to its OATT and provide that designation, or show cause why the agreement should not be so designated. Should PJM and Midwest ISO designate this agreement as related to their OATTs and provide the designations, AEP and NIPSCO are directed to refile the agreement with the appropriate designations within 60 days of the date of this order.

11. Pursuant to section 206 of the FPA, the Commission must establish a refund effective date in a case such as this one that is no earlier than sixty days after the date of publication in the *Federal Register* of notice of the Commission's initiating the proceeding, and no later than five months subsequent to the expiration of the 60-day period. The Commission will establish a refund effective date of 60 days from the date of publication in the *Federal Register* of notice of the Commission's initiating this proceeding.¹¹ However, the Commission does not see a need for refunds in these circumstances, because any change to the designations would not affect any rates or charges under the agreement. The Commission is also required by section 206 to indicate when it expects to issue a final order; the Commission expects to issue a final order in this proceeding within 180 days of the date of issuance of this order.

The Commission orders:

(A) AEP's filing of the revised interconnection agreement between I&M and NIPSCO is hereby conditionally accepted in its entirety, to be effective October 11, 2004, subject to further Commission action both on the compliance filing directed in Ordering Paragraph (B) below and in the section 206 proceeding established by this order, as discussed in the body of this order. This acceptance does not make the revised interconnection agreement part of I&M's tariff.

¹⁰ See *Electronic Tariff Filings*, Notice of Proposed Rulemaking, 108 FERC ¶ 61,021 (2004) (Docket No. RM01-5-000).

¹¹ See, e.g., *Canal Electric Company*, 46 FERC ¶ 61,153, *reh'g denied*, 47 FERC ¶ 61,275 (1989).

Docket No. ER05-31-000 *et al.*

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(B) AEP and NIPSCo are hereby directed to file, within 60 days, a revised interconnection agreement that includes PJM and Midwest ISO as signatories, as discussed in the body of this order.

(C) AEP, PJM and Midwest ISO are directed to make the appropriate filings, as discussed in the body of this order.

(D) The refund effective date in Docket No. EL05-70-000, established pursuant to section 206 of the Federal Power Act, will be 60 days from the date of publication in the Federal Register of notice of the initiation of this proceeding.

(E) The Secretary shall promptly publish in the *Federal Register* a notice of the Commission's initiation of the proceeding in Docket No. EL05-70-000.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.